

ADAMS & COMMISSIONG LLP

ATTORNEYS AT LAW

65 BROADWAY SUITE 715
 NEW YORK, NY 10006
 TEL: 212-430-6590
 FAX: 212-981-3305

MARTIN E. ADAMS
 KARLOFF C. COMMISSIONG
 ADMITTED TO PRACTICE IN NEW YORK
 WWW.AMCMLAW.COM

August 26, 2020

VIA ECF AND ELECTRONIC MAIL

Hon. Colleen McMahon
 United States District Judge
 Southern District of New York
 500 Pearl Street
 New York, NY 10007

Re: United States v. Samuel Israel, III, 05 Cr. 1039 (CM)/08 Cr. 723 (KMK) -
 Compassionate Release - Reply to Government Response

Dear Judge McMahon:

THE BUREAU OF PRISONS (BOP) IS INCAPABLE OF CARING FOR SAMUEL ISRAEL

Having caused unimaginable pain to many, Samuel Israel has reaped what he has sown, consumed by 11 years of unimaginable suffering. It is in the spirit of mercy, that we ask that the Court grant the judicial compassion extended to Ganeene Goode.¹ Compassion is the act of sharing the pain and suffering of others, and mercy is the expression of that compassion, particularly in matters where most believe that compassion is undeserved.

Ms. Goode's request for compassionate release, was granted based on the "abominable COVID-19 statistics at FMC Carswell" and her deteriorating kidney failure. According to the BOP, as of August 24, 2020:²

Institution	Inmates Positive	Staff Positive	Inmate Deaths	Staff Deaths	Inmates Recovered
FCI Butner Low	6	1	16	1	643
FMC Carswell	10	2	5	0	527

The deplorable numbers at FCI Butner - numbers worse than at FMC Carswell - and the Court's own lack of trust in the BOP, bolster a call for mercy in this instance. Without that powerful expression of compassion by this Court, Samuel - who like Ms. Goode is confined to a wheelchair, was not in a wheelchair when he arrived at FCI

¹ See United States v. Ganeene Goode, 14 Cr. 810 (CM), Decision and Order, attached as Exhibit A.

² FCI Butner Low, 1,082 inmates, 59% positive rate; FMC Carswell 1,079 inmates, 49% positive rate. FCI Butner Low, 2.4% of infected died; FMC Carswell, .9 % of infected died.

Butner and has substantially deteriorated since his remand – will be relegated to slow torture, ending in death, courtesy of the BOP.

SAMUEL ISRAEL HAS EXHAUSTED HIS ADMINISTRATIVE REMEDIES

The government has argued “While Israel submitted a request for release to the BOP in April, that request was based on his alleged higher risk of contracting COVID-19 and likelihood of suffering life threatening symptoms. Israel’s present request is based on his having actually contracted”. See Government Letter dated July 3, 2020, attached as Exhibit B at p. 6. This argument has no merit and should be given no weight by this Court. Samuel’s request raised the issue of his vulnerability to COVID-19. His vulnerability to contracting COVID-19 does not prevent the Court from hearing the issue because he has contracted COVID-19. The BOP reviewed and denied the request. Because 30 days have elapsed from the date of Samuel’s request to the Warden, this Court may consider his motion regardless of whether he has pursued an administrative appeal from the Warden’s denial.³

SAMUEL IS AT RISK OF SUFFERING LONG-TERM EFFECTS FROM CONTRACTING COVID-19

According to the government, Samuel “has not...provided evidence to support the contention that patients like him, who are asymptomatic when they contract the infection, suffer from any long-term health problems.” See *Id.* at p. 11. This argument is tantamount to claims at the highest levels of our government that “It is what it is” with respect to COVID-19 deaths. According to Dr. Anthony Fauci, the nation’s leading infectious disease expert, “later check-ups with patients who ‘recovered’ from the virus ‘have a substantially high proportion of cardiovascular abnormalities, evidence of myocarditis by MRI and PET scans, evidence of emerging cardiomyopathies.’”⁴ Long-term effects can also include blood clots and blood vessel problems.⁵ For Samuel, who has been diagnosed with Sick Sinus Syndrome⁶, and whose paralysis leaves him vulnerable to blood clots, the evidence is apparent.

³ The government conceded this point in a letter submitted in United States v. Joseph Meli, S1 17 Cr. 127 (KMW) attached as Exhibit B.

⁴ See Spectrum News Staff Nationwide, *Dr. Anthony Fauci Warns of COVID-19 Long-Term Effects*, Spectrum News1 (Aug. 20, 2020), <https://spectrumnews1.com/ky/lexington/news/2020/08/20/dr-anthony-fauci-warns-of-covid-19-long-term-effects>; see also, Carolyn Y. Johnson and Ariana Eunjung Cha, *Can you get coronavirus twice? Doctors are unsure, even as anecdotal reports mount*, (Jul. 23, 2020), The Washington Post, <https://www.washingtonpost.com/health/2020/07/22/can-you-get-coronavirus-twice/> (“[There are] a growing number of reports of people getting covid-19...recovering and then falling sick again — assertions, that if proved, could complicate efforts to make a long-lasting vaccine, or to achieve herd immunity...”)

⁵ See <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351>.

⁶ Sick Sinus Syndrome - inability of the heart's natural pacemaker (sinus node) to create a heart rate that is appropriate for the body's needs. It causes irregular heart rhythms.

CONCLUSION

The Court found that, “Justice no longer demands that [Ms. Goode] remain incarcerated in a BOP facility...”⁷ We ask in this matter that the Court find that mercy necessitates that Samuel Israel no longer remain incarcerated at a BOP facility. We ask that the Court grant our request for compassionate release.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'K. Commissiong', written in a cursive style.

Karloff C. Commissiong, Esq.

cc: A.U.S.A. Margery Feinzig (Via Electronic Mail)
A.U.S.A. Sarah Krissoff (Via Electronic Mail)
Hon. Kenneth Karas, United States District Court Judge (Via Electronic Mail)

⁷ See Exhibit A at p. 9.